

SENATE BILL 550

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11r2425
CF 11r1809

By: **Senators Kelley, Astle, Benson, King, Klausmeier, Madaleno, and Montgomery**

Introduced and read first time: February 4, 2011

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Developmental Disabilities Administration – Licensees – Duties and**
3 **Immunities**

4 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to adopt
5 certain rules and regulations that require a licensee of the Developmental
6 Disabilities Administration to take certain actions before hiring an employee;
7 requiring certain licensees to respond promptly to certain requests for
8 information; providing that persons that make certain disclosures to certain
9 employees shall have certain immunities and protections; requiring the
10 Administration to educate certain licensees about certain duties and
11 immunities; requiring the Administration to establish and maintain a certain
12 database on or before a certain date; requiring the Administration to provide
13 access to the database to certain persons; making a stylistic change; and
14 generally relating to licensees of the Developmental Disabilities Administration.

15 BY repealing and reenacting, with amendments,
16 Article – Health – General
17 Section 7–904
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2010 Supplement)

20 BY adding to
21 Article – Health – General
22 Section 7–911
23 Annotated Code of Maryland
24 (2009 Replacement Volume and 2010 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Health – General**

2 7–904.

3 (a) The Secretary shall adopt rules and regulations for the licensing of
4 services for an individual with developmental disability or a recipient of individual
5 support services.

6 (b) The rules and regulations shall ensure that services to an individual with
7 developmental disability or a recipient of individual support services are provided in
8 accordance with the policy stated in Subtitle 1 of this title.

9 (c) (1) The rules and regulations shall require that:

10 (i) At least 75% of the governing body of a licensee shall be
11 residents of the State or reside within a 100–mile radius of the administrative offices
12 of the licensee, which shall be located in the State; and

13 (ii) No employee of a licensee or immediate family member of an
14 employee of a licensee may serve as a voting member of the governing body of a
15 licensee unless:

16 1. The employee receives services from the licensee; or

17 2. The Administration explicitly approves the
18 composition of the governing body through an innovative program service plan in
19 accordance with COMAR 10.22.02.09.F.

20 (2) The requirements of paragraph (1)(i) of this subsection may be
21 waived if a community–based advisory board or committee is established by the
22 licensee and approved by the Department.

23 (d) The rules and regulations shall also require that an applicant for a
24 license under this section shall demonstrate to the Department the applicant’s
25 capability to provide for or arrange for the provision of all applicable services required
26 by this chapter by submitting, at a minimum, the following documents to the
27 Department:

28 (1) A business plan that clearly demonstrates the ability of the
29 applicant to provide services in accordance with Maryland regulations and funding
30 requirements;

31 (2) A summary of the applicant’s demonstrated experience in the field
32 of developmental disabilities, in accordance with standards developed by the
33 Department;

34 (3) Prior licensing reports issued within the previous 10 years from
35 any in–State or out–of–state entities associated with the applicant, including

1 deficiency reports and compliance records on which the State may make reasoned
2 decisions about the qualifications of the applicant; and

3 (4) A written quality assurance plan, approved by the [Developmental
4 Disabilities] Administration, to address how the applicant will ensure the health and
5 safety of the individuals served by the applicant and the quality of services provided to
6 individuals by the applicant.

7 (E) THE RULES AND REGULATIONS SHALL ALSO REQUIRE THAT,
8 BEFORE HIRING AN EMPLOYEE, A LICENSEE SHALL:

9 (1) PERFORM A CRIMINAL HISTORY RECORDS CHECK OR
10 BACKGROUND CHECK OF THE POTENTIAL EMPLOYEE AS REQUIRED BY §
11 19-1902 OF THIS ARTICLE IF THE CHECK IS REQUIRED UNDER TITLE 19,
12 SUBTITLE 19 OF THIS ARTICLE;

13 (2) REVIEW THE JOB APPLICATION OF THE POTENTIAL
14 EMPLOYEE AND IDENTIFY PREVIOUS EMPLOYERS OF THE POTENTIAL
15 EMPLOYEE;

16 (3) SEARCH THE DATABASE ESTABLISHED UNDER § 7-911 OF
17 THIS SUBTITLE TO DETERMINE THE PREVIOUS EMPLOYERS OF THE POTENTIAL
18 EMPLOYEE WHO ARE LICENSEES; AND

19 (4) MAKE A GOOD FAITH EFFORT TO CONTACT THE GREATER
20 NUMBER OF THE FOLLOWING PERSONS TO INQUIRE ABOUT THE JOB
21 PERFORMANCE OF THE POTENTIAL EMPLOYEE:

22 (I) THE EXECUTIVE OFFICER OR ADMINISTRATIVE HEAD OF
23 EACH OF THE MOST RECENT TWO EMPLOYERS RELATING TO DIRECT CARE
24 SERVICES OF THE POTENTIAL EMPLOYEE; OR

25 (II) THE EXECUTIVE OFFICER OR ADMINISTRATIVE HEAD OF
26 EACH EMPLOYER RELATING TO DIRECT CARE SERVICES OF THE POTENTIAL
27 EMPLOYEE IN THE PREVIOUS 6 YEARS.

28 (F) (1) A LICENSEE SHALL RESPOND PROMPTLY TO A REQUEST FOR
29 INFORMATION MADE UNDER SUBSECTION (E)(4) OF THIS SECTION.

30 (2) A PERSON WHO MAKES A DISCLOSURE TO PROSPECTIVE
31 EMPLOYERS UNDER THIS SUBSECTION SHALL HAVE THE IMMUNITY FROM
32 LIABILITY DESCRIBED IN § 5-423 OF THE COURTS ARTICLE AND ANY OTHER
33 APPLICABLE IMMUNITIES AND PROTECTIONS PROVIDED BY LAW.

1 **(G) THE ADMINISTRATION SHALL EDUCATE ALL LICENSEES ABOUT:**

2 **(1) THEIR DUTIES UNDER THIS SECTION AND § 7-911 OF THIS**
3 **SUBTITLE; AND**

4 **(2) THEIR IMMUNITIES UNDER SUBSECTION (F)(2) OF THIS**
5 **SECTION AND § 7-1005 OF THIS TITLE.**

6 **7-911.**

7 **(A) ON OR BEFORE JANUARY 1, 2012, THE ADMINISTRATION SHALL**
8 **ESTABLISH AND MAINTAIN AN ELECTRONIC DATABASE OF ALL EMPLOYEES OF**
9 **LICENSEES.**

10 **(B) THE ADMINISTRATION SHALL REQUIRE ALL LICENSEES TO ENTER**
11 **THE FOLLOWING INFORMATION ABOUT EACH EMPLOYEE OF THE LICENSEE INTO**
12 **THE DATABASE REQUIRED UNDER THIS SECTION:**

13 **(1) THE NAME OF THE EMPLOYEE;**

14 **(2) THE DATE OF BIRTH OF THE EMPLOYEE;**

15 **(3) THE LAST FOUR DIGITS OF THE SOCIAL SECURITY NUMBER**
16 **OF THE EMPLOYEE;**

17 **(4) THE NAME OF THE LICENSEE; AND**

18 **(5) THE START DATE OF EMPLOYMENT OF THE EMPLOYEE BY THE**
19 **LICENSEE.**

20 **(C) THE ADMINISTRATION SHALL PROVIDE ACCESS TO THE DATABASE**
21 **REQUIRED UNDER THIS SECTION TO ALL EXECUTIVE OFFICERS AND**
22 **ADMINISTRATIVE HEADS OF LICENSEES.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2011.